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MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 2, 2021/2022

UVT 2612 – ENVIRONMENTAL LAW

(All Sections / Groups)

27th April 2022

Reading Time:

9.15am – 9.30am (15 Minutes)

Answering Time:

9.30am – 12.30pm (3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.
2. This Question paper consists of 3 pages with 4 Questions only.
3. **Attempt Either Question 1A OR Question 1B. Questions Two to Four are compulsory.** All questions carry equal marks and the distribution of the marks for each question is given.
4. Students are only allowed to bring in CLEAN AND ORIGINAL COPY of the following statutes into the exam venue:
 - i. Environmental Quality Act 1974
 - ii. International Trade in Endangered Species Act 2008
 - iii. Local Government Act 1976
 - iv. Petroleum and Electricity (Control & Supplies) Act 1974

v. Wildlife Conservation Act 2010

“Clean” is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.

5. Please write all your answers in the Answer Booklet provided.

ATTEMPT EITHER**QUESTION 1A**

This definition is from *Our Common Future*, also known as the Brundtland Report:

"Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs. It contains within it two key concepts:

- *the concept of needs, in particular the essential needs of the world's poor, to which overriding priority should be given; and*
- *the idea of limitations imposed by the state of technology and social organization on the environment's ability to meet present and future needs."*

Based on the provision from the Environmental Quality Act 1974 and other decided cases, discuss the implementation of the above concept in Malaysia.

(Total: 25 marks)

OR

QUESTION 1B

"... the direct or indirect introduction, as a result of human activity, of substances or heat into the water or land which may be harmful to human health or the quality of aquatic ecosystems or terrestrial ecosystems directly depending on aquatic ecosystems, which result in damage to material property, or which impair or interfere with amenities and other legitimate uses of the environment."

The above is the definition of pollution as defined by EU *Water Framework Directive*, Directive #2000/60/EC dated October 23, 2000. Illustrate the types of pollution covered in our Environmental Quality Act 1974.

(Total: 25 marks)

Continued...

ATTEMPT ALL QUESTIONS**QUESTION 2**

Arman is the owner of Petroleum Murah Sdn Bhd (hereinafter “**Petroleum Murah**”), a company specifically deals with petroleum production in Pantai Johor, Kedah. He already complied with the requirements from Environmental Quality Act 1974 especially Section 34A. During a routine check by enforcement officers from the Kedah Department of Environment (DOE), Malaysia, Arman was charged for various offences relating to the environmental pollution under the Environmental Quality Act 1974. These charges are listed out as follows:

Charge 1

Discharge of unused propane and butane gases which exceeds the acceptable limit specified under the Environmental Quality Act 1974

Charge 2

Discharge of petroleum liquid wastes into the sea from several pipelines located inside Petroleum Murah oil platform in Pantai Johor.

Charge 3

Loud sound from the platform which affected the residents from Taman Tunku Intan Safinaz, located merely 3 kilometres from the platform.

Assess the validity of the above mentioned charges, the punishment, and defences if available according the relevant statute. Arman was ordered to pay RM 500 000 as provided under the Section 47 of the EQA 1974 for all the charges imposed on him. He feels like the harsh fines were too much and wishes to appeal. Advise him.

(Total: 25 marks)

Continued...

QUESTION 3

Azlan has always been fascinated with the nature since childhood. Back then he used to have a lot of pets that were wildly caught, such as birds and snakes. He now runs an exclusive pet shop in Melaka which sells both protected and unprotected species of animals. Last month, his pet shop was raided by the Wildlife Department of Melaka. Among the list of confiscated animals include various types of live animals such as trapdoor spiders, tarantulas, snakes, birds and monkeys. The authority also found out that he has been selling internal part of protected animals such as the Malayan Tiger (*Panthera Jacksoni*) for the traditional medicine purposes.

Later that day, the Wildlife Department has also managed to intercept some of his outgoing parcels containing live White Rump Shama (Murai Batu) bird which he tries to ship to Indonesia and Thailand. When the officer requested him to produce any license or permit that allows him to carry on such business, he admitted that he has no license as his application for license and permit was rejected by the Wildlife Department 5 years ago and he has been running his business illegally since then. Illustrate Azlan's legal standing.

(Total: 25 marks)

QUESTION 4

Gopal Sri Ram JCA ruled in *Tan Tek Seng v Suruhanjaya Perkhidmatan Pendidikan & Another [1996] 1 MLJ 261* that the expression 'life' in art 5(1) of the Constitution is to be given a broad and liberal meaning in order to implement the true intention of the framers of the Federal Constitution. In his lordship's words:

"Adopting the approach that commends itself to me, I have reached the conclusion that the expression 'life' appearing in art 5(1) does not refer to mere existence. It incorporates all those facets that are an integral part of life itself and those matters which go to form the quality of life. Of these are the rights to seek and be engaged in lawful and gainful employment and to receive those benefits that our society has to offer to its members. *It includes the right to live in a reasonably healthy and pollution free environment.*"

The decision above could have included the concept of Public Interest Litigation. Assess the availability of this concept in Malaysia by referring to the relevant statute and cases.

(Total: 25 marks)

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